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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 11, 2002

APPLICATION OF

COX VIRGINIA TELCOM, INC.

CASE NO. PUC-2002-00005

For waivers of the Three-Call Allowance Requirement, price ceilings for directory assistance, directory listings and certain operator services, and request for expedited review

FINAL ORDER

On January 15, 2002, Cox Virginia Telcom, Inc. ("Cox"), filed its Application with the State Corporation Commission ("Commission") requesting a waiver of the Three-Call Allowance requirement¹ and waivers of the price ceilings² applicable to

¹ The Three-Call Allowance requires that local exchange carriers provide customers with three free calls to local directory assistance per month. See Final Order, Application of the Virginia Telephone Association ("VTA"), Case No. PUC-1989-00025 (June 7, 1990), 1990 S.C.C. Ann. Rept. 241 ("Three-Call Allowance Order").

² The Commission's Rules Governing the Offering of Competitive Local Exchange Telephone Service ("Local Rules") 20 VAC 5-400-180 at D 3 c provides in part:

Price ceilings shall be the highest tariffed rates as of January 1, 1996, for comparable services of any incumbent local exchange telephone company or companies serving within the certificated local service area of the new entrant.

Price ceilings may be waived pursuant to 20 VAC 5-400-180 D 3 d, which provides that "the commission may permit pricing structures or rates of a new entrant's local exchange service(s) that do not conform with the established price ceilings, unless there is a showing that the public interest will be harmed."

Directory Assistance, Third-Number Billed, Operator-Handled Calling Card, Collect Person-to-Person, Busy Line Verification and Interrupt Services, and Directory Listings, including Non-published, Non-listed, Additional Listings, and Specialized Listings ("Selected Operator Services").

Cox gave customer notice of its Application pursuant to the Commission's Order Prescribing Notice and Inviting Comments and Requests for Hearing issued February 27, 2002, and the Order Granting Motion for Extension of Deadlines issued March 11, 2002.³

Twenty-four letters of comment were received into the record from customers of Cox, and all were in opposition to the Application. Of particular concern to these customers was the proposed elimination of the Three-Call Allowance. Many also expressed concern over granting Cox an unrestrained ability to raise rates, which waiver of the price ceilings would allow. These customers stated generally that granting Cox its request for waiver of price ceilings would leave them without safeguards against uncontrolled increases in these rates.⁴

³ Cox filed proof of notice on April 24, 2002, and again on April 29, 2002. The notice by bill insert was given for the billing cycles beginning March 16 and ending April 15, 2002.

⁴ Several of these customers indicated a view that having competitive alternatives would not be a sufficient restraint on price increases. One customer cited the costs of changing local exchange carriers ("\$40 or more for residences and exceedingly more for businesses") as inhibiting customer choice.

On May 7, 2002, Verizon Virginia Inc. and Verizon South Inc. (collectively "Verizon") and Central Telephone Company of Virginia, Inc., United Telephone-Southeast, Inc., and Sprint Communications Company of Virginia, Inc. (collectively "Sprint"), filed their respective comments.

Both Verizon and Sprint support granting Cox a waiver of the Three-Call Allowance and price ceiling for Directory Assistance. Indeed, both Verizon and Sprint urge the Commission to waive the Three-Call Allowance generally and to find Directory Assistance to be a competitive service for all local exchange carriers. However, the issue of competitive classification of these services cannot and will not be considered in this case, nor will we expand Cox's application for waiver of the Three-Call Allowance to apply to other carriers.

The Commission considers each requested waiver of the Local Rules on a case-by-case basis, giving due regard to the requesting carrier's circumstances and the public interest considerations involved in each application.

The Three-Call Allowance Order of June 7, 1990, in Case No. PUC-1989-00025 recognizes the need for local telephone customers to have access to telephone numbers.

An essential part of furnishing telephone service is the furnishing of numbers necessary to reach others. Most numbers are

available in white page directories compiled, printed, and distributed without charge. Many numbers, including new listings, non-published numbers, and non-listed numbers, do not appear in those directories. For customers trying to reach such numbers, DA [Directory Assistance] should be considered a supplement to the printed directory. A person requesting such a number should not be considered a 'cost causer'. The cause of such cost is due in large part to the exclusion of some numbers from the printed directory. The requesting party is not imposing a cost upon the system to any greater extent than the called party whose number was not printed. The cost is not assignable to one or the other, and such unassignable costs should be borne by all customers, as white page costs are borne today. The fact remains that customers cannot use telephone service unless they have the number of the party they want to reach. These numbers should, within reason, be easily accessible to all customers.

Id., 1990 S.C.C. Ann. Rept. 241.

Cox, Verizon, and Sprint request us to consider the alternative sources for these telephone numbers that have become available since 1990. While there are alternative sources for Directory Assistance for some customers, the Commission continues to regard the provision of the Three-Call Allowance as an essential part of local exchange telecommunications services and a supplement to the directory. Therefore, we find that the

public interest would be harmed if customers of Cox are denied the Three-Call Allowance.⁵

In support of its request for price ceiling waivers in its Application, Cox notes that the Commission granted SBC Telecom, Inc. ("SBC"), limited waivers of price ceilings for Directory Assistance and certain Operator Services by Final Order issued January 16, 2001, in Case No. PUC-2000-00254.⁶ However, since that date a number of competitive local exchange carriers ("CLECs") have left the market. "Cox is cognizant that the current CLEC marketplace does not have as many participants as it did even a year ago."⁷ However, Cox claims that the market will not thrive if the CLECs "are shackled by rules that were set during a time when there was only one provider of local exchange service".⁸

Cox further argues that it needs pricing flexibility so that it can design service package offerings to meet the needs of its customers and prospective customers in Virginia. It points to the need for pricing flexibility on its Directory

⁵ There has been no showing by Cox that alternative sources of directory assistance information is as convenient or accessible as the carrier's provision of that service.

⁶ SBC is not a party to this proceeding, and the Final Order issued January 16, 2001, in Case No. PUC-2000-00254 will not be disturbed.

⁷ Application, p. 2.

⁸ Application, p. 2.

Assistance service that can be used to permit both local and national calls at the same price. With respect to Directory Listings, Cox states that it purchases these services from the incumbent local exchange carrier and incurs further administrative costs, which Cox seeks to recover through waiver of the price ceiling. In addition, Cox claims that the other Operator Services are used infrequently and that it wants to set those prices at a level that more accurately reflects cost.

The Commission recognizes the customers' concern that waiving the price ceilings on the Selected Operator Services could lead to unrestrained price increases for those services and, therefore, may cause harm to the public interest. After consideration of all of the above, we find that Cox's request would harm the public interest.

NOW THE COMMISSION, having considered the Application, is of the opinion that it should be denied.

Accordingly, IT IS ORDERED THAT:

- (1) The Application filed by Cox is hereby denied.
- (2) There being nothing further to come before the Commission, this case shall be dismissed and the papers herein placed in the file for ended causes.